(3)

BEFORE THE HIGH COURT OF JUDICATURE OF M.P. AT JABALPUR

W.P. No. 3481 /2000

PETITIONER .... Digreelal Patel S/o Shri T.R.Patel
Aged about 30 years R/o Village
Padigaon
Tah. and Distt. Raigarh (M.P.)

VERSUS

RESPONDENTS ... 1. State of M.P.
Through Secretary,
School Education Deptt.
Bhopal

2. Commissioner (Revenue)
Revenue Division Bilaspur
Distt. Bilaspur

3. Chief Executive Officer,
Jila Panchayat
Raigarh Distt. Raigarh M.P.

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

(21)

BEFORE HON.FAKHARUDDIN, J.

W.P.No. 3481 / 2000

Digreelal Patel Versus State of M.P. and others.

ORDER

(20.6.2001)

This petition is directed against the order dated 5.5.2000 passed by Commissioner , Bilaspur Divn.Bilaspur i.e. respondent no.2 ,whereby the appeal preferred by the petition has been dismissed as barred by limitation. Petitioner had earlier filed W.P.No. 3043/98 which was decided on 9.9.98 by the High Court of Madhya Pradesh at Jabalpur on the ground that alteternative remedy is available to the petitioner. The petitioner filed the appeal before the appellate authority after 30 days i.e. beyond the period of limitation. It was filed on 18.12.99 i.e. after the limitation was over on the ground that the communication was received from the counsel on 18-12-99. As the communication itself was received late the appeal could not be preferred in time.

2. Objection was raised and by the impugned order the appeal has been held to be barred by limitation and was dismissed as such.

3. Learned counsel for the petitioner submits that as soon as the communication was received by him, he filed the appeal. It submitted that the delay caused was not malafide. It is further submitted that the delay is bonafide in nature and was caused due to late communication being received from the counsel.

4. Having considered the facts and circumstances of the

...2

case, and also considering that the petitioner is a low paid employee (Shiksha Karmi) and he is still not regularised, it would be just and proper and in the ends of justice that he should have a chance of getting the adjudication of the petition on its own merits. Thus in the facts and circumstances of the case the order passed by the Commissioner dismissing the appeal being barred by limitation,dt. 5.5.2001 is setaside. The appeal is directed to be heard afresh by the respondent no.2 i.e. Commissioner,Bilaspur division,Bilaspur, in accordance with law. The petition is allowed.

There shall be no orders as to costs.

c.c. as per rules

Sd/-
Fakhruddin
Judge

J